IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
Review Petition (L) No.69 of 2005
In
Writ Petition no.1596 of 1996

Shriprakash Tiwari & Anr. .. Petitioners (Org.Respondents No.3(a) & 3(b))

Vs.

Sheila Ebrahim Botawala & Ors. .. Respondents (Respondents 1 & 2 Org.petitioners & Respondents 3 & 4 Org.Rspdts 1 & 2.)

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Shri A.J.Rana with Ms Pournima Bhatia i/b K.P.Anilkumar for the petitioners.

Ms Soma Singh for the respondent Nos.1 and 2.

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CORAM : R.M.S.KHANDEPARKAR &
V.M.KANADE, JJ

DATED : 26TH APRIL, 2007

P.C.

1. Heard. The order dated 19th September, 2006 in Writ Petition No.1596 of 1996 is sought to be reviewed on two grounds. Firstly that considering the policy of the government, the term "Government Allottee" under the definition clause in the Rent Act was misconstrued to mean that the allotment has

necessarily to be in favour of the government servant. According to learned counsel for the applicants/petitioners, it is settled law that even allotment in favour of homeless persons would fall within the meaning of the Government allottee under the said Act. It was further contended that the applicants had even paid a sum of Rs.50,000/- at the time when the old building was pulled down and the said amount was collected by MHADA taking into consideration the rights of the applicants to continue to be in occupation of the premises.

2. Undisputedly, both these grounds were not raised at the time when the writ petition was disposed of by an order dated 19th September, 2005. Merely because the applicants want to protect the possession of the premises with the respondent Nos.1 and 2 on the grounds which were never raised or argued in defence in the writ petition when it was disposed of, that could not be said to be an error apparent on the face of record, nor it could be the ground for reviewing the order dated 19th September, 2005 disposing the writ petition. Perhaps, those grounds could be the grounds, if established, for interference in the appeal but not in the review, and therefore, those grounds would not warrant review of the order dated

19th September, 2005.

3. As no case of any error apparent on the face of record in the judgment dated 19th September, 2005 is made out nor any ground on the similar lines is disclosed and canvassed for reviewing the order, the review application is liable to be dismissed and accordingly is hereby dismissed.

4. At the request of the learned counsel for the applicants, which is objected to on behalf of the respondents, time to vacate the premises is extended by 12 weeks, subject to that the applicants shall not create any third party interest nor shall induct any third party in the suit premises.

5. Order accordingly.

(R.M.S.KHANDEPARKAR, J)

(V.M.KANADE, J)